

Shappe

PTO/SB/97 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

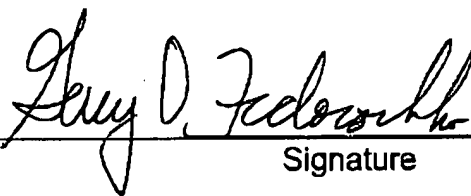
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile  
transmitted to the Patent and Trademark Office

on April 4, 2001.

Date



Signature

Gary D. Fedorochko at (202) 508-9223

Typed or printed name of person signing Certificate

RECEIVED  
APR 12 2001  
7:51  
U.S. PATENT AND TRADEMARK OFFICE

Note: Each paper must have its own certificate of transmission, or this  
certificate must identify each submitted paper.

Petition under 37 CFR 1.181<sup>1.182 and</sup> or 1.183  
Request For Oral Hearing  
Reply Brief  
Fee Transmittal for FY 2001  
Transmittal Form

Papers being faxed to Board of Patent Appeals and Interferences at (703) 308-7952

RECEIVED  
 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
 BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

TC 2800 MAIL ROOM

FILED BY FAX (703) 308-7952  
TO BOARD

Shigeru ATSUMI

Serial No. 09/028,276

Examiner: Jesse A. Fenty

Filed: February 24, 1998

Group Art Unit: 2815

For: SEMICONDUCTOR INTEGRATED CIRCUIT  
DEVICE AND FLASH EEPROM

Atty Dkt No. 1701.73982

 BOARD OF PATENT  
 APPEALS &  
 INTERFERENCES  
 APR -11 2001

**PETITION UNDER 37 CFR § 1.181, § 1.182 AND/OR § 1.183**

Commissioner for Patents  
 Washington, D.C. 20231

Sir:

Appellant hereby petitions the Board of Patent Appeals and Interferences and/or the Commissioner, pursuant to 37 CFR § 1.181, § 1.182 and/or § 1.183 for entry of the attached Reply Brief and Request For Oral Hearing, or in the alternative for entry of the Request For Oral Hearing. The office is authorized to charge the fee of \$130.00 under 37 CFR § 1.17(h) to our Deposit Account No. 19-0733. In the event of a deficiency in fees or an overpayment, the office is authorized to charge or credit deposit account 19-0733. In the event that the instant petition is granted the office is authorized to charge any other required fees, such as the fee for a Request For Oral Hearing pursuant to 37 CFR § 1.17(d).

**1. FACTS**

In the above-referenced application, appellants filed an Appeal Brief on October 17, 2000. In response thereto, the Examiner prepared and mailed an Examiner's Answer on January 4, 2001. Appellant's representatives including the attorney responsible for the application and docketing

Atsumi -- Serial No. 09/028,276

personnel mis-docketed the final due date for a response thereto and believed that a Reply Brief was due within two months of the date of the Examiner's Answer with extensions, up to four months (statutory period) typically available under 37 CFR § 1.136(a) for other types of responses. Appellant's representatives have replaced a number of personnel in their docketing department since the original docketing of the matter. Subsequently, on April 4, 2001, during the course of preparing a Reply Brief and a Petition For One Month of Extension of Time with the intent of filing the same today, April 4, 2001, appellant's representatives discovered that no extensions were available for filing a Reply Brief and/or a Request For Oral Hearing in response to the Examiner's Answer. Hence, appellants discovered that the period for filing a Reply Brief and a Request For Oral Hearing pursuant to 37 CFR §§ 1.193 and 1.194 had lapsed.

Appellant's representatives have fully investigated the matter and submit that the error in docketing and failure to recognize that the optional filing of a Reply Brief and Request For Oral Hearing was due, without extension pursuant to 37 CFR § 1.136(a), occurred without deceptive intent.

## **2. RELIEF REQUESTED**

Appellant hereby requests the Commissioner and/or Board to enter the Reply Brief and Request For Oral Hearing, or in the alternative, merely the Request For Oral Hearing pursuant to any one of 37 CFR §§ 1.181, 1.182 or 1.183. In this light, appellant hereby authorizes the office to charge deposit account no 19-0733 a fee for a petition for one-month extension of time if the office believes that is necessary to facilitate granting of the requested relief. Appellant notes that entry of

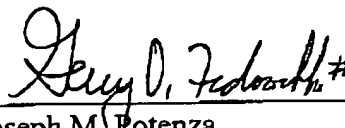
Atsumi -- Serial No. 09/028,276

the Request For Oral Hearing is a minimum burden of the Commissioner and/or Board in that the Board will need to consider appellant's appeal regardless. Appellant believes that an Oral Hearing will benefit the Board in disposing of the matter.

Respectfully submitted,

Dated: April 4, 2001

By:

#35509  
Joseph M. Potenza

Registration No. 28,175

BANNER & WITCOFF, LTD  
1001 G Street, N.W., 11th Floor  
Washington, D.C. 20001  
(202) 508-9100